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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,488	10/16/2001	William D. Swart	007412.00297	3105

71867 7590 08/17/2009

BANNER & WITCOFF , LTD
ATTORNEYS FOR CLIENT NUMBER 007412
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

EXAMINER	
NEWLIN, TIMOTHY R	
ART UNIT	PAPER NUMBER
2424	

MAIL DATE	DELIVERY MODE
08/17/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/977,488	SWART ET AL.	
	Examiner	Art Unit	
	Timothy R. Newlin	2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 April 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *4-6,12,13,23,25 and 30-42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *4-6,12,13,23-25 and 30-42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 4-5, 12, 13, 23-24, 30-35, 37-40, and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Omoigui, US 6,694,352.

Regarding claims 32 and 37, Omoigui discloses a method comprising:

receiving a request from a user terminal specifying desired content available on a broadcast system **[col. 12, 12-50]**;

determining availability on the broadcast system of a program related to the desired content **[col. 2, 44-64]**;

determining availability on one or more other communication links of other multimedia data related to the desired content **[Omoigui monitors broadcasts from one or *more* sources, and the data can include not only presentations (e.g. program) itself, but metadata associated with that program such as events within**

program. Col. 8, 6-10 and 45-46. Another example of "multimedia data related to the desired content" is the descriptive information field 218, which contains data related to a presentation such as a live transcript or key word summary. Cols. 8-9 ll. 50-10. Also see col. 9, 8-28 describing determination of availability.]; and

transmitting a notification of the availability of the program and the other multimedia data **[col. 10, 30-51; notifications can include both television and internet data, cols. 11-12, ll. 61-3]**.

Omoigui also teaches that the method can be implemented on a computer, as recited in claim 37 **[cols. 5 and 6]**.

Regarding claims 33 and 38, Omoigui discloses a method wherein the notification comprises a message using an instant messaging protocol **["instant messaging protocol" is a broad term that is met by Omoigui's notifications, which constitue an immediate message indicating the availability of currently *or soon-to-be* broadcast, col. 11, 5-39]**.

Regarding claims 34 and 39, Omoigui discloses a method wherein the other multimedia data comprises an electronic book **["electronic book" is merely a cohesive text stored electronically; books have unlimited formats, subject matter, etc. Omoigui's presentation transcript meets the recited language. *E.g.* col. 10, 4-7]**.

Regarding claims 35 and 40, Omoigui discloses a method wherein the other multimedia data comprises stored data available on a network upon request from a server **[*e.g.*, col. 11, 61-64]**.

Regarding claims 4 and 23, Omoigui discloses a method wherein the notification comprises an on-screen notification at one of a television and a computer display **[display 172, Fig. 2]**.

Regarding claims 5, 24, and 42, Omoigui discloses a method wherein the on-screen notification includes a hyperlink to one or more programs **[col. 10, 29-44]**.

Regarding claims 12 and 30, Omoigui discloses a method further comprising accessing a user's profile and history file, wherein the transmitting the notification is based on the user's profile and history file **[step 600, Fig. 6, col. 10, 54-67; also see Fig 8., wherein registration interface includes a box 422 where the user can specify a profile in terms of notification protocol]**.

Regarding claims 13 and 31, Omoigui discloses a method wherein the request includes a method of delivery of the program **[notification method, Fig. 8]**.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6, 25, 36 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Omoigui as cited above.

Regarding claims 36 and 41, Omoigui does not specify a fixed time prior to broadcast at which the notification occurs. However, Omogui does explicitly teach notifying users that a broadcast is *about to begin* **[*e.g.*, col. 1, 10-13]**. Given that Omoigui notifies users prior to a broadcast, it would have been obvious to one of ordinary skill to specify a fixed duration at which to transmit the notification. By knowing the lag time between notification and viewing, users can wrap up any tasks and prepare to view the presentation.

Regarding claims 6 and 25, Omoigui does not explicitly disclose the notification remaining until acknowledged. However, he does teach the automatic recording may take place if a notification is not acknowledged **[col. 14, 47-50]**. Conversely then, the notifications in Omoigui may be acknowledged by the user. Thus Omoigui teaches acknowledgement of the notification insofar as automatic recording is an

acknowledgement of the notification. At the very least, Omoigui's suggestion would make it obvious to one of ordinary skill that the notification could be transmitted until acknowledged.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy R. Newlin whose telephone number is (571) 270-3015. The examiner can normally be reached on M-F, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Kelley/
Supervisory Patent Examiner, Art Unit 2424

TRN